

Notice of Allowability

Application No.

10/664,605

Examiner

Christina Borgeest

Applicant(s)

GOLEMBO ET AL.

Art Unit

1649

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to The amendment after final dated 16 April 2006.
2. ☒ The allowed claim(s) is/are 31,36-42,67,72-82 and 87-96.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows: claim 77 should recite "The method according to claim 67," instead of 68. Authorization for this examiner's amendment was given in a telephone interview with Teresa Chen on 8 May 2007.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance: Applicants' have amended the claims to be free of the prior art. Specifically, claim 1 has deleted reference to Xee=Met, which overcomes all of the prior art. For instance, the prior art of record (Tanaka et al., cited in previous Office actions) discloses an analog of the natriuretic peptide variant as set forth in SEQ ID NO: 5, wherein Xee=Met:

RESULT 22
US-07-828-450-7
; Sequence 7, Application US/07828450
; Patent No. 5434133
; GENERAL INFORMATION:
; APPLICANT: TANAKA, SHOJI
; APPLICANT: MINAMITAKE, YOSHIHARU
; APPLICANT: KITAJIMA, YASUO
; APPLICANT: FURUYA, MAYUMI
; APPLICANT: MATSUO, HISAYUKI
; TITLE OF INVENTION: CNP ANALOG PEPTIDES AND THEIR USE
; NUMBER OF SEQUENCES: 42
; CORRESPONDENCE ADDRESS:
; ADDRESSEE: CUSHMAN, DARBY & CUSHMAN
; STREET: 1625 L STREET, N.W.
; CITY: WASHINGTON
; STATE: D.C.

Art Unit: 1649

```

; COUNTRY: USA
; ZIP: 20036
; COMPUTER READABLE FORM:
; MEDIUM TYPE: Floppy disk
; COMPUTER: IBM PC compatible
; OPERATING SYSTEM: PC-DOS/MS-DOS
; SOFTWARE: PatentIn Release #1.0, Version #1.25
; CURRENT APPLICATION DATA:
; APPLICATION NUMBER: US/07/828,450
; FILING DATE: 19920131
; CLASSIFICATION: 530
; ATTORNEY/AGENT INFORMATION:
; NAME: SCOTT, WATSON T.
; REGISTRATION NUMBER: 26,581
; REFERENCE/DOCKET NUMBER: 9437/94133
; TELECOMMUNICATION INFORMATION:
; TELEPHONE: 202-861-3067
; TELEFAX: 202-822-0944
; TELEX: 6714627 CUSH
; INFORMATION FOR SEQ ID NO: 7:
; SEQUENCE CHARACTERISTICS:
; LENGTH: 17 amino acids
; TYPE: AMINO ACID
; STRANDEDNESS: single
; TOPOLOGY: linear
; MOLECULE TYPE: peptide
US-07-828-450-7

```

```

Query Match          80.9%; Score 55; DB 1; Length 17;
Best Local Similarity 58.8%; Pred. No. 6.3e-05;
Matches 10; Conservative 0; Mismatches 7; Indels 0; Gaps
0;

```

```

Qy      1 CFGXXXDRIGXXSXXGC 17
        |||  |||  |  ||
Db      1 CFGLKLDRI GMSGLGC 17

```

In addition, Applicants have amended their method claims (claims 72-82, 87-96) to encompass in vitro methods only, for which there are no enablement issues.

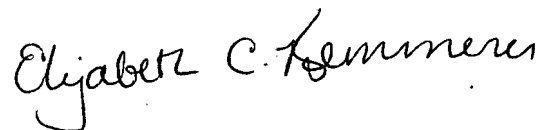
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christina Borgeest whose telephone number is 571-272-4482. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Andres, Ph.D. can be reached on 571-272-0867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christina Borgeest, Ph.D.



**ELIZABETH KEMMERER
PRIMARY EXAMINER**